

**BEFORE THE
NATURAL RESOURCES COMMISSION
OF THE
STATE OF INDIANA**

IN THE MATTER OF:)	
)	
AMENDING 312 IAC 18-3-18, WHICH)	Administrative Cause
GOVERNS STANDARDS FOR CONTROL)	Number: 06-014E
OF THE EMERALD ASH BORER,)	
BY ADDING AREA TO THE QUARANTINE)	(LSA #08-413(F))

**REPORT OF PUBLIC HEARING, ANALYSIS,
AND CONSIDERATION FOR FINAL ADOPTION**

1. Rule Processing

For consideration is a proposed amendment to 312 IAC 18-3-18, which governs standards for the control of the emerald ash borer (*Agrilus planipennis*), (the “EAB”), adding area that has been found to be infested with EAB to Indiana’s intrastate quarantine.

On November January 22, 2008, the Natural Resources Commission gave preliminary to the proposed rule amendment. A “notice of intent” to adopt the proposed rule amendment was posted to the Indiana REGISTER on May 28, 2008. The notice listed Megan Abraham, with the Department of Natural Resources, Division of Entomology and Plant Pathology, as the “small business regulatory coordinator” for the proposal. No comments were received in response to this notice.

As required by Executive Order, a proposed fiscal analysis of the rule proposal was submitted to the Office of Management and Budget on May 29, 2008. The analysis provided in substantive part:

FISCAL IMPACT ANALYSIS TO STATE AND LOCAL GOVERNMENTS
LSA Document #08-413
(Administrative Cause Number 06-041E)

A calculation of the estimated fiscal impact on state and local government, including the effective date of the rule

The estimated fiscal impact to state government for the quarantined townships is seventy-five thousand eight hundred and fifty-two dollars (\$75,852.00) if all businesses need and implement a compliance agreement. Table E-1 lists total costs per county.

Impact to the state will primarily be the creation and administration of compliance agreements with each small business. Creation of the compliance agreement will entail a 0.5 man day for a single state employee to write the agreement. Administration of the agreement will entail another 0.5 man day twice during the emerald ash borer flight season and once during the non-flight season. Estimating the average hourly rate of a Division of Entomology and Plant Pathology employee to be approximately nineteen dollars and sixty cents (\$19.60) an hour, the cost to the state to create and administer each compliance agreement should be approximately two hundred and twenty dollars and fifty cents (\$220.50) per business.

Table E-1 was created with input from Table B-1 and displays the total number of small businesses per county that are anticipated to need a compliance agreement. The total number of small businesses in Table E-1 include: Primary/ Secondary Sawmills, Logging Companies/ Timber Buyers and Arborists per county. However, not all of these businesses in each county are expected to need a compliance agreement. Table E-1 does not include the number of Nursery/ Nursery Dealers, Campgrounds, or Firewood Producers in each county as these types of businesses are not anticipated to require a compliance agreement.

Fiscal impact to local government is minimal as local government will not administer the rule. Local government may decide to implement marshalling yards to gather and mitigate infested ash materials; the impact to local government may be negated by the use of ash materials to improve local community grounds and parks. Should they chose to contract a local sawmill, these marshalling yards may be used as a source of ash for creation of park benches, community signs, and mulch products.

Identification of any sources of revenue affected by the rule

Timber sales from DNR properties may be impacted by this rule. Ash materials sold from the properties located in quarantined townships will adhere to standards set by the rule and companies buying these materials will be required to be in compliance. Some companies may decide not to participate in sales from DNR properties because of the quarantine. However, the impact to revenue is expected to be very minimal because few DNR properties in the quarantine townships sell timber.

A few state parks may encounter a slight decrease in attendance due to the inability of visitors to bring in their own firewood. It is estimated that this impact would be very low as current attendance reports for state parks are above prior years.

Sales tax revenue from the sale of ash products is not expected to be impacted by the rule, and if any, the impact would be very small. Sawmills still continue to move and sell ash products under compliance agreements.

Identification of any appropriation, distribution or other expenditures of revenue affected by the rule

Table E-1: Estimated Fiscal Impact to State Government to Administer the Emerald Ash Borer Rule for the Number of Small Businesses in Each County.

County	Number Small Businesses	Total Cost per County
Adams	10	\$2,205.00
Allen	81	\$17,860.50
Dekalb	25	\$5,512.50
Elkhart	50	\$11,025.00
Hamilton	14	\$3,087.00
Huntington	10	\$2,205.00
LaGrange	31	\$6,835.50
Marion	16	\$3,528.00
Noble	11	\$2,425.50
Porter	3	\$661.50
Randolph	1	\$220.50
St. Joseph	21	\$4,630.50
Steuben	28	\$6,174.00
Wabash	12	\$2,646.00
Wells	9	\$1,984.50
White	9	\$1,984.50
Whitley	13	\$2,866.50
Total	344	\$75,852.00

DNR salaries will be utilized to administer this rule. Expenses for emerald ash borer surveying will continue to be allocated to monitor the distribution of the insect as well as discovering new satellite populations. Survey expenses are needed to provide data used in the management of the quarantine. State expenditures for quarantine management are supported by and used to match federal grants for emerald ash borer management.

The estimated increase or decrease in revenues or expenditures of state and local government that would result from the implementation of the rule

There is no anticipated increase in revenue for state and local government from this rule. Decrease in state revenue from the rule is not expected, and if any, the decrease would be very low. No decrease in local government revenue is expected from the rule.

The assumptions used in making the fiscal impact calculation

This fiscal impact calculation assumes that all currently licensed vendors will remain in business in the coming years and that all of them will continue to deal with ash materials. Many nurseries and nursery dealers have already made the decision to stop sale or destroy existing ash stock. These calculations also assume that each of the sawmills (primary and secondary) will continue to utilize ash materials throughout the year. In fact, many have reduced the amount of ash materials to be utilized during the flight season, but this may be accommodated by increased utilization during the non flight season. This calculation also assumes that all vendors will be willing to apply for and implement standards set by a compliance agreement. A small number of vendors may chose not to handle ash or implement compliance agreements imposed by this rule.

The Office of Management and Budget reviewed the fiscal analyses, and recommended in its letter dated June 17, 2008, “that the rule changes be approved.”

On June 26, 2008, the NRC, Division of Hearings submitted a copy of the proposed rule to the Legislative Services Agency (the “LSA”) along with the associated Economic Impact Statement (EIS). The EIS indicated, in pertinent part:

**ECONOMIC IMPACT STATEMENT (EIS)
LSA Document #08-413**

IC 4-22-2.1-5 Statement Concerning Rules Affecting “Small Businesses”

Estimated Number of Small Businesses Subject to This Rule:

Several small businesses in Indiana will be impacted by the proposed rule. Types of small businesses subject to this rule include: Nurseries/Nursery Dealers, Sawmills (Primary and Secondary), Logging Companies/Timber Buyers, Arborists, Campgrounds, and Firewood Producers/Retailers. For the townships included in this rule proposal one thousand two hundred and sixty (1,260) businesses are impacted by this rule. Table B-1 lists the number of businesses by county and business type impacted by the rule.

Table B-1 Impacted Small Businesses by County and Type of Business.(1)

County	Nursery/ Nursery Dealer	Sawmill (Primary)	Sawmill (Secondary)	Logging Company/ Timber Buyers	Arborists	Campground	Total Small Business per County
Adams	25	0	9	1	0	1	36

Allen	264	13	54	6	8	2	347
Dekalb	26	1	16	8	0	4	55
Elkhart	14	0	50	0	0	0	64
Hamilton	118	0	10	0	4	0	132
Huntington	39	2	7	1	0	5	54
LaGrange	17	7	15	9	0	17	65
Marion	156	0	13	0	3	1	173
Noble	23	2	4	5	0	12	46
Porter	7	0	2	0	1	0	10
Randolph	6	0	1	0	0	1	8
St. Joseph	25	2	17	0	2	1	47
Steuben	25	8	7	9	4	20	73
Wabash	21	1	8	3	0	5	38
Wells	24	1	7	1	0	0	33
White	9	3	3	3	0	11	29
Whitley	35	3	8	2	0	2	50
Total	834	43	231	48	22	82	1260

(1) Firewood Producers are not included in the table as only two (2) businesses were identified in the quarantined counties (Steuben, Wabash).

Table B-2: Estimated Average Annual Administrative Cost for Emerald Ash Borer Quarantine Compliance by Small Business Type. (1)

Small Business Type: Assumptions for Administrative Costs.	Annual Average Administrative Cost:
Nursery/ Nursery Dealer: No administrative cost unless able to sell existing ash stock.	\$0.00
Sawmills/ Logging Companies: Maintenance/ management of records = 0.5 man days/ month.	\$720.00
Arborists: Maintenance/ management of records = 6 man days/ year.	\$720.00
Campgrounds: No administrative cost unless selling firewood outside quarantined area.	\$0.00

(1) Firewood producers' administrative costs are the same as Sawmills/ Logging Companies.

Business Type	Total # Small Business with Potential Impact in Counties/ Townships Proposed for Quarantine	Cost per small Business	Total
Nursery/Nursery Dealers	834	\$0.00	\$0.00
Sawmill (Primary)	43	\$720.00	\$30,960.00
Sawmill (Secondary)	231	\$720.00	\$166,320.00
Logging Company/ Timber Buyers	48	\$720.00	\$34,560.00
Arborists	22	\$840.00	\$18,480.00
Campgrounds	82	\$0.00	\$0.00
Total	1260		\$250,320.00

Justification Statement of Requirement or Cost:

The reported value of ash logs processed through Indiana mills on an annual basis is over eight (8) million dollars, another three hundred and sixty-four (364) million dollars has been estimated to be invested in urban and street trees not on private property. Currently, emerald ash borer has been found in 17 counties in the state of Indiana. By imposing this rule, the artificial and natural spread of this pest can be slowed. Counties that do not

currently have an infestation of the emerald ash borer can be saved from the potential damage to their ash tree resource. By managing the artificial spread to non-quarantined counties/townships, the existing ash stands will continue to be utilized and the timber industry will be allowed to continue to support this faction of the economy in Indiana. The urban ash resource will continue to provide many benefits. Research will have time to develop more and better methods to manage this pest with the intent to maintain ash as a viable natural resource. Imposing this rule will also allow non-quarantined townships to continue to market ash materials to other states and encourage trade between the states and the markets outside of the nation. Without this rule, federal restrictions as well as further restrictions from non-regulated states may be placed on the state of Indiana, making it difficult to utilize existing ash in any form.

On October 30, 2007, a copy of the notice of public hearing was forwarded to LSA for posting.

The justification statement required under IC 4-22-2-24(d)(3) indicated:

The approximate total economic impact to small businesses in the proposed quarantined area is \$250,320.00. The total economic impact to the state amounts to \$75,852.00. Assuming all businesses have operations that require compliance agreements, the estimated annual administrative cost for local small businesses and the state total \$326,172.00. With an estimated annual benefit lost to emerald ash borer of \$1,636,170 (loss of street tree and sawmill processed ash), the rule is estimated to achieve a 5:1 benefit/cost ratio.

By imposing this rule, the artificial spread of this pest can be slowed. Counties/ townships that do not currently have an infestation of the emerald ash borer can be saved from the potential damage to their ash tree resource. By managing the artificial spread to non-quarantined townships and counties, the existing ash stands will continue to be utilized and the timber industry will be allowed to continue to support this faction of the economy in Indiana. The urban ash resource will continue to provide many benefits. Research will have time to develop more and better methods to manage this pest with the intent to maintain ash as a viable natural resource. Imposing this rule will allow and aid the marketing of ash materials within Indiana's industries and to industries outside Indiana, and will prolong ash within the rural and urban forest resource affording more time for research to develop improved management methods and understanding of the emerald ash borer.

On June 27, 2008, the LSA issued by e-mail an "authorization to proceed" with rule adoption. As required by Ind. Code § 4-22-2.1-5, a copy of the Economic Impact Statement was forwarded to the Indiana Economic Development Corporation (the "IEDC") for review and comment.

A public hearing was scheduled for August 18, 2008. Notice of the public hearing and the text of the proposed amendments were posted to Indiana REGISTER on July 9, 2008. This notice included the statement under Ind. Code § 4-22-2.1-5, concerning rules affecting small businesses. The notice also included information required under Ind. Code § 4-22-2-24. Notice of the public hearing with similar information was published on July 9, 2008 in the Indianapolis *Daily Star*, a newspaper of general circulation in Marion County, Indiana. In addition, notice of the public hearing and a summary of the proposed rule changes were published on the Commission's Web-based calendar. A link to the proposed rule was added to the Commission's Website in order to simplify receipt of public comment on the proposal. (<http://www.in.gov/nrc/rules/proposed.html>)

On August 8, 2008, the IEDC forwarded its comment on proposed LSA #08-413 by e-mail. The IEDC's comments were posted to the Commission's Website on August 11, 2008 at <http://www.in.gov/nrc/files/LSA-08-413.pdf>, and were available for review at the public hearing as required by Ind. Code § 4-22-2.1-6. In its comments, the IEDC's concluded:

This rule is made to comply with a directive from the United States Department of Agriculture. Although the cost associated with complying with the rule is significant, the rule is necessary to ensure that the ash tree population does not continue to deteriorate. The impact statement notes that the rule only impacts those businesses that choose to handle the regulated material. Those that choose not to handle ash trees or ash tree products will not be impacted. The statement also explains that costs to businesses to comply with the rule for those that choose to handle regulated material are nominal. Additionally, the cost associated with the continued spread of the emerald ash borer is likely to be greater than the costs associated with the rule. The IEDC does not object to the economic impact to small businesses associated with the proposed rule.

2. Report of Public Hearing

The public hearing was convened as scheduled on August 18, 2008. No member of the public appeared for the public hearing. No comments have been received throughout the rule amendment process.

3. Consideration for Final Adoption

Pursuant to 7 CFR 301.53-2(a), the Administrator of the U.S. Department of Agriculture (USDA) is authorized to quarantine "each State, or each portion of a State, in which the [EAB] has been found, in which the Administrator has reason to believe that the [EAB] is present, or that the Administrator considers necessary to regulate because of its inseparability for quarantine enforcement purposes from localities where [EAB] has been found." On November 21, 2006, the federal government, through USDA's Animal and Plant Health Inspection expanded the EAB quarantine to include the entire state of Indiana. This federal quarantine prohibits the movement of ash tree materials and hardwood firewood out of the state of Indiana (interstate movement) without federal certification. This does not change Indiana's proposed quarantine intrastate expansion, which would prohibit the movement of ash tree materials and hardwood firewood out of the areas listed in 312 ICA 18-3-18(c) without a certificate of inspection for the emerald ash

borer. Within this context, the proposed rule amendment published in the Indiana REGISTER, and attached as Exhibit A, is ready for consideration as to final adoption.

3. Recommendation

It is recommended that amendments to 312 IAC 18-3-18 be given final adoption as contained in Exhibit A as attached.

Dated: August 20, 2008

Hearing Officer
Jennifer M. Kane

TITLE 312 NATURAL RESOURCES COMMISSION**Final Rule**
LSA Document #08-413(F)**DIGEST**

Amends 312 IAC 18-3-18, pertaining to entomology and plant pathology, to regulate the emerald ash borer (*Agrilus planipennis*), a pest or pathogen, to provide standards for quarantine, and to add counties and townships to the quarantine area. Effective 30 days after filing with the Publisher.

312 IAC 18-3-18

SECTION 1. 312 IAC 18-3-18 IS AMENDED TO READ AS FOLLOWS:

312 IAC 18-3-18 Control of the emerald ash borer

Authority: IC 14-10-2-4; IC 14-24-3
Affected: IC 14-24

Sec. 18. (a) The emerald ash borer (Coleoptera: Buprestidae: *Agrilus planipennis*) is:

- (1) a pest or pathogen; and ~~is~~
- (2) regulated under this section.

(b) The definitions in 312 IAC 1, 312 IAC 18-1, and as follows apply throughout this section:

- (1) "Certificate of inspection" means a document issued or authorized to be issued by the state entomologist or the U.S. Department of Agriculture to allow the movement of a regulated article to any destination. A certificate may be in any form approved by the state entomologist or the U.S. Department of Agriculture for this purpose, including a phytosanitary document or multiple use quarantine certificate.
- (2) "Compliance agreement" means a written agreement between the department or the U.S. Department of Agriculture and another person that authorizes the movement of regulated articles under this section and other stated conditions.
- (3) "Eradication area" means the area including all plants infected by the emerald ash borer and any other ash species within one-half (1/2) mile radius of an infected plant.
- (4) "Infested area" means a site where:
 - (A) the emerald ash borer is present; or ~~where~~
 - (B) circumstances make it reasonable to believe that the ash borer is present.
- (5) "Inspector" means a division inspector or a person authorized by the U.S. Department of Agriculture authorized to enforce this section.
- (6) "Move" means to:
 - (A) ship;
 - (B) offer for shipment;
 - (C) receive for transportation;
 - (D) transport;
 - (E) carry; or
 - (F) allow to move or ship.

(c) The following counties include an infested area and are regulated under this section:

(1) The following townships in Adams County:

~~(1) Clay (A) Blue Creek Township, and Van Buren Township in LaGrange County.~~

~~(2) Jamestown (B) French Township, and Millgrove Township in Steuben County.~~

(C) Hartford Township.

(D) Jefferson Township.

(E) Kirkland Township.

(F) Monroe Township.

(G) Preble Township.

(H) Root Township.

(I) St. Marys Township.

(J) Union Township.

(K) Wabash Township.

(L) Washington Township.

(2) The following townships in Allen County:

(A) Aboite Township.

(B) Adams Township.

(C) Cedar Creek Township.

(D) Eel River Township.

(E) Jackson Township.

(F) Jefferson Township.

(G) Lafayette Township.

(H) Lake Township.

(I) Madison Township.

(J) Marion Township.

(K) Maumee Township.

(L) Milan Township.

(M) Monroe Township.

(N) Perry Township.

(O) Pleasant Township.

(P) Scipio Township.

(Q) Springfield Township.

(R) St. Joseph Township.

(S) Washington Township.

(T) Wayne Township.

(3) The following townships in Dekalb County:

(A) Butler Township.

(B) Concord Township.

(C) Fairfield Township.

(D) Franklin Township.

(E) Grant Township.

(F) Jackson Township.

(G) Keyser Township.

(H) Newville Township.

(I) Richland Township.

(J) Smithfield Township.

(K) Spencer Township.

(L) Stafford Township.

(M) Troy Township.

(N) Union Township.

(O) Wilmington Township.

(4) Concord Township in Elkhart County.

- (5) The following townships in Hamilton County:**
 - (A) Clay Township.**
 - (B) Delaware Township.**
- (6) The following townships in Huntington County:**
 - (A) Clear Creek Township.**
 - (B) Dallas Township.**
 - (C) Huntington Township.**
 - (D) Jackson Township.**
 - (E) Jefferson Township.**
 - (F) Lancaster Township.**
 - (G) Polk Township.**
 - (H) Rock Creek Township.**
 - (I) Salamonie Township.**
 - (J) Union Township.**
 - (K) Warren Township.**
 - (L) Wayne Township.**
- (7) The following townships in LaGrange County:**
 - (A) Bloomfield Township.**
 - (B) Clay Township.**
 - (C) Clearspring Township.**
 - (D) Eden Township.**
 - (E) Greenfield Township.**
 - (F) Johnson Township.**
 - (G) Lima Township.**
 - (H) Milford Township.**
 - (I) Newbury Township.**
 - (J) Springfield Township.**
 - (K) Van Buren Township.**
- (8) The following townships in Marion County:**
 - (A) Lawrence Township.**
 - (B) Washington Township.**
- (9) The following townships in Noble County:**
 - (A) Albion Township.**
 - (B) Allen Township.**
 - (C) Elkhart Township.**
 - (D) Green Township.**
 - (E) Jefferson Township.**
 - (F) Noble Township.**
 - (G) Orange Township.**
 - (H) Perry Township.**
 - (I) Sparta Township.**
 - (J) Swan Township.**
 - (K) Washington Township.**
 - (L) Wayne Township.**
 - (M) York Township.**
- (10) Westchester Township in Porter County.**
- (11) White River Township in Randolph County.**
- (12) The following townships in St. Joseph County:**
 - (A) Harris Township.**
 - (B) Portage Township.**
- (13) The following townships in Steuben County:**

- (A) Clear Lake Township.**
- (B) Fremont Township.**
- (C) Jackson Township.**
- (D) Jamestown Township.**
- (E) Millgrove Township.**
- (F) Otsego Township.**
- (G) Pleasant Township.**
- (H) Richland Township.**
- (I) Salem Township.**
- (J) Scott Township.**
- (K) Steuben Township.**
- (L) York Township.**
- (14) The following townships in Wabash County:**
 - (A) Chester Township.**
 - (B) Lagro Township.**
 - (C) Liberty Township.**
 - (D) Noble Township.**
 - (E) Paw Paw Township.**
 - (F) Pleasant Township.**
 - (G) Waltz Township.**
- (15) The following townships in Wells County:**
 - (A) Chester Township.**
 - (B) Harrison Township.**
 - (C) Jackson Township.**
 - (D) Jefferson Township.**
 - (E) Lancaster Township.**
 - (F) Liberty Township.**
 - (G) Nottingham Township.**
 - (H) Rock Creek Township.**
 - (I) Union Township.**
- (16) The following townships in White County:**
 - (A) Liberty Township.**
 - (B) Union Township.**
- (17) The following townships in Whitley County:**
 - (A) Cleveland Township.**
 - (B) Columbia Township.**
 - (C) Etna-Troy Township.**
 - (D) Jefferson Township.**
 - (E) Richland Township.**
 - (F) Smith Township.**
 - (G) Thorncreek Township.**
 - (H) Union Township.**
 - (I) Washington Township.**
- (d) The following items are regulated articles:**
 - (1) The emerald ash borer in any living stage of development.**
 - (2) Any ash tree (*Fraxinus* spp.), including nursery stock.**
 - (3) A limb, stump, branch, or debris of at least one (1) inch in diameter of an ash tree.**
 - (4) An ash log, slab, or untreated ash lumber with bark attached.**
 - (5) Composted and noncomposted ash chips and composted and noncomposted ash bark chips at least one (1) inch in diameter.**

(6) An article, product, or means of conveyance reasonably determined by the state entomologist to present the risk of the spread of the emerald ash borer.

(7) Cut firewood of any nonconiferous species originating from a regulated area.

(e) A person must not move a regulated article outside an infested area except under the following conditions:

(1) An inspector issues a certificate of inspection following a thorough examination of the regulated article and any treatment method. The certificate must be properly supported by a determination by the inspector, or by a grower or shipper authorized to conduct an inspection under a compliance agreement, that no life stage of the emerald ash borer is present. A certificate may be conditioned upon the completion of treatments administered under methods approved by the state entomologist or by a United States federal officer authorized by the state entomologist.

(2) A certificate of inspection is attached to any regulated article or to a shipping document that adequately describes the regulated article. The certification must remain attached until the regulated article reaches its destination.

(f) A person must not move a regulated article originating outside an infested area, through a county regulated under subsection (c), without a certificate of inspection for the emerald ash borer, except under the following conditions:

(1) From September 1 through April 30, or when the ambient air temperature is below forty (40) degrees Fahrenheit, if the person does not stop except to refuel or for traffic conditions.

(2) From May 1 through August 31 when the temperature is forty (40) degrees Fahrenheit or higher if the article is:

(A) shipped in an enclosed vehicle; or

(B) completely enclosed by a covering adequate to prevent access by the emerald ash borer.

(3) The point of origin of the regulated article is indicated on the bill of lading or shipping document.

(4) The regulated article is moved within Indiana by approval of the state entomologist for scientific purposes.

(5) The article is not combined or commingled with other articles so as to lose its individual identity.

(g) A regulated article originating outside a regulated area that is moved into a county regulated under subsection (c) and exposed to potential infestation by the emerald ash borer is considered to have originated from a regulated area. A person must not move the regulated article from the regulated area except under subsection (e).

(h) A person must not move a regulated article from an infested area through any nonregulated area to a regulated destination without a certificate of inspection for emerald ash borer, except under the following conditions:

(1) From September 1 through April 30, or when the ambient air temperature is below forty (40) degrees Fahrenheit, if the person does not stop except to refuel or for traffic conditions.

(2) From May 1 through August 31 when the temperature is forty (40) degrees Fahrenheit or higher, if the article is:

(A) shipped in an enclosed vehicle; or

(B) completely enclosed by a covering adequate to prevent the escape of any emerald ash borer.

(3) The county and state of origin and the final destination of the regulated article is indicated on the bill of lading or shipping document.

(i) The bill of lading or shipping document accompanying any shipment of regulated articles in Indiana must indicate the county and state of origin of the regulated articles.

(j) A person who moves a regulated article in violation of this section must move or destroy the article, at the person's or owner's expense, as directed by the state entomologist.

(k) The state entomologist may issue a special permit for the movement of the emerald ash borer into or within Indiana for research purposes. The permit may, by express language, exempt the permit holder from conditions of this section.

(l) Uncomposted ash chips and uncomposted ash bark chips ~~are~~ **not** larger than one (1) inch in diameter are exempted from the requirements of this section.

(m) Any ash species within the eradication area shall be removed and rendered incapable of supporting a life stage of the emerald ash borer.

(n) Regulated articles from another infested state or any part of a state infested with the emerald ash borer are prohibited entry into Indiana without an accompanying certificate of inspection or phytosanitary document issued by the U.S. Department of Agriculture or the plant health regulatory agencies of the originating state.

(o) Harvest for timber or other use of the wood of any non-ash forest species within the eradication area is prohibited until after:

- (1) all ash has been removed; and
- (2) the site is released by the state entomologist or his or her designee.

(p) A person must not move ash, in any form, from the eradication area without a compliance agreement signed by the state entomologist or his or her designee.

(Natural Resources Commission; 312 IAC 18-3-18; filed May 25, 2005, 10:00 a.m.: 28 IR 2942)